IN THE UNITED STATES PATENT & TRADEMARK OFFICE

APPL. NO.	:	**10/060,121** CONFIRMATION NO.: **5887**
APPLICANTS	:	**ROBERT P. BENJEY**
TITLE	:	**METHOD AND SYSTEM FOR CONTROLLING LIQUID FUEL AND VAPOR FLOW DURING REFUELING OF A MOTOR VEHICLE FUEL TANK**
FILED	:	**January 31, 2002**
ART UNIT	:	**3753**
EXAMINER	:	**JOHN A. RIVELL**
CUSTOMER NO.	:	**00200**

CERTIFICATE OF TRANSMISSION
(37 C.F.R. 1.8(a))

I, **Alberta J. Fisher,** hereby certify that this correspondence is being faxed by facsimile transmission to Art Unit 3573 at (703) 872-9306.

Alberta J. Fisher
Signature

Date: **March 24, 2003**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE UNDER 37.CFR 1.111

Response to The Office Action dated December 24, 2003, Applicant submits the following Response:

Remarks

The Examiner has rejected Applicant's claims as obvious over a proposed combination of the teachings of Applicant's earlier patent '655 with that of the teachings of Hashimoto, et al. '057. The Examiner has also proposed to add the teachings of the patent to Yamazaki, et al. to the aforementioned proposed combination to render obvious under 35 U.S.C. 103(a) Applicant's Dependent Claims 2, 3 and 8 and Applicant's Independent Claim 11.

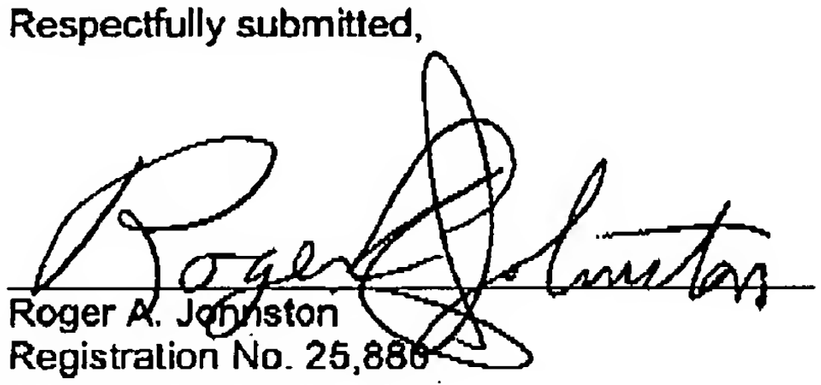
Regarding the Examiner's proposed combination of the teachings of Hashimoto, et al. with those of Benjey '057, it is submitted that the Hashimoto, et al. patent requires a balancing of the flow by appropriate choice of the sizing of the orifice 18b in order to properly control the pressure in the upper end of the filler tube and provide adequate control of the vapor recirculation. If this balance is disturbed, the system will be rendered inoperative. As stated in the attached Declaration under 37 CFR 1.132 of Robert P. Benjey the inventor in the present application and one skilled in the art, if the mechanical seal in the upper end of the tube as taught by the '655 patent is added to the system of Hashimoto, et al. as proposed by the Examiner, the resultant structure would provide an unbalanced system and would be inoperative. In order to effectuate the structural combination proposed by the Examiner, the system of Hashimoto, et al. would have to be re-worked to either remove or reconfigure the orifices, 18b. Such re-work would be tenuous, experimental and certainly beyond pale of obviousness. Accordingly, the Examiner's rejection is traversed on the grounds that the proposed combination of the teachings of the references would produce an unworkable result.

The Examiner's proposed addition of the teachings of Yamazaki, et al. to those of the previously proposed unworkable combination is not seen as adding any further relevant teachings. Yamazaki, et al.

fails to teach either a mechanical seal about the nozzle or upper region or a dynamic seal at the end of the nozzle. The Examiner's proposed combination of the teachings of Hashimoto, et al. with those of Benjey and further those of Yamazaki fails to suggest or teach a combination of a mechanical seal about the upper region of the nozzle and a dynamic seal about the lower region of the nozzle adjacent the end thereof by restriction of the diameter of the filler tube as recited in Applicant's claims; and, accordingly the rejection is arbitrary and not based on the teaching or suggestion of the references. Thus, the features of the claims reciting a one way valve in the recirculation line are not rendered obvious by reason of the failure of the proposed combination of references to teach or suggest the combination of a dynamic seal and a mechanical seal about the nozzle for insuring proper vapor recirculation.

For the reasons set forth above and in view of the Declaration Under 37 CFR 1.132 filed concurrently herewith, it is submitted that the claims defined patentable subject matter; and, therefore withdraw of the Examiner's rejection is hereby requested.

Respectfully submitted,



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